

REMARKS

The Office action dated May 13, 2008, and the references cited have been fully considered. In response, please enter the amendments and consider the remarks presented herein. Reconsideration and/or further prosecution of the application is respectfully requested.

Applicants represent the claims herewith to provide a clean copy for the record, and make no amendments thereto.

Applicants appreciate the thoughtful examination of the application.

All claims stand rejected as being anticipated by, or rendered obvious by, prior art as set forth in the Office action.

The first claim set consists of independent claim 1 and dependent claims 2-10. Independent claim 1 stands rejected as being anticipated by Finn et al., US Patent 6,728,204. Applicants respectfully traverse the rejection as the Office fails to establish a *prima facie* rejection of independent claim 1. Claim 1 recites limitations, including that the apparatus includes a detector and a first protector, and that the first protector registers to be notified of a condition. In its rejection, the Office equates Finn et al.'s APS processor 14 to be the recited claim limitation of the detector, and Finn et al.'s Protection Switching Module 18 to be the recited claim limitation of the first protector. Office action, mailed May 13, 2008, page 4. Therefore, as part of a *prima facie* anticipation rejection, Finn et al.'s Protection Switching Module 18 must register with Finn et al.'s APS processor 14 to be notified of the condition. The Office states that Finn et al. teaches that of this requisite registration by the APS processor receiving the number of nodes to acquire the network topology and with each node transmitting its topology to other nodes. *Id.* (citations omitted). Those teachings are *non sequitur* to the recited claim limitation to which they are being applied. The claim requires that the *first protector register with the detector to be notified of the condition*, not that the detector receives network topology information from other nodes. For at least these reasons, the Office action fails to present a *prima facie* rejection of independent claims 1 and its dependent claims 2-10. Moreover, assuming that the Office performed its duty as required by MPEP § 706 and 37 CFR

1.104(c)(2) and cited the best art available against claim 1, then claims 1-10 are patentably distinct and allowable over the best art available. For at least these reasons, Applicants respectfully request all rejections of claims 1-10 be withdrawn, and claims 1-10 be allowed.

The second claim set consists of independent claim 11, and its dependent claims 13-17 and 23-24. These claims stand rejected under 35 USC § 103 as being rendered obvious over Finn et al., US Patent 6,728,204, in view of Lindskog et al., US Patent 6,665,262. Applicants respectfully traverse these rejections as the Office fails to establish a *prima facie* rejection of independent claim 11. First, an apparatus is defined in the US language as an appliance or device for a particular purpose. Applicants respectfully traverse the Office's interpretation of "an apparatus" to be a network of nodes. For at least these reasons, the Office fails to present a *prima facie* rejection of independent claim 1. For at least these reasons, the Office action fails to present a *prima facie* rejection of independent claims 11 and its dependent claims 13-17 and 23-24. Moreover, assuming that the Office performed its duty as required by MPEP § 706 and 37 CFR 1.104(c)(2) and cited the best art available against claim 11, then claims 11, 13-17 and 23-24 are patentably distinct and allowable over the best art available. For at least these reasons, Applicants respectfully request all rejections of claims 11, 13-17 and 23-24 withdrawn, and claims 11, 13-17 and 23-24 be allowed.

The third claim set consists of independent claim 18, and its dependent claims 20-22. Independent claim 18 is written in means plus function with claim limitations paralleling those of independent claim 11. The Office rejections claim 18 for the same reasons as it rejects independent claim 11. Therefore, Applicants submit that the Office fails to establish a *prima facie* rejection of independent claim 18 for at least the reasons discussed *supra* in regards to independent claim 11. . For at least these reasons, Applicants respectfully request all rejections of independent claim 18 and its dependent claims 20-22 be withdrawn, and claims 18 and 20-22 be allowed.

Final Remarks. In view of the above remarks and for at least the reasons presented herein, all pending claims are believed to be allowable over all prior art of record, the application is considered in good and proper form for allowance, and the Office is respectfully requested to issue a timely Notice of allowance in this case. Applicant requests any and all rejections and/or objections be withdrawn. If, in the opinion of the Office, a telephone conference would expedite the prosecution of the subject application, the Office is invited to call the undersigned attorney, as Applicants are open to discussing, considering, and resolving issues.

Applicants request a two-month extension of time is required. Should a different extension of time be deemed appropriate, Applicants hereby petition for such deemed extension of time. Applicants further authorize the charging of Deposit Account No. 501430 for any fees that may be due in connection with this paper (e.g., claim fees, extension of time fees) as required in addition to the payment made herewith using EFS-Web.

Respectfully submitted,
The Law Office of Kirk D. Williams

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By



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